

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Romero Analyst: Roger Lackey Bill Number: AB 1924

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 08/07/2000

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Enterprise Zones/Aerospace Competitiveness Improvement

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended April 24, 2000.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 24, 2000 STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Government Code, this bill would require the Trade and Commerce Agency (TCA) to design, develop, and oversee the operation of a 36-month Aerospace Training Competitiveness Improvement Program within one or more designated enterprise zones.

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would provide a credit to a taxpayer equal to the amount paid or incurred during the taxable or income year for the overhead costs of training employees under the terms of an Aerospace Training Competitiveness Improvement Program. The program must be provided for a taxpayer's specific business unit located within a designated enterprise zone.

SUMMARY OF AMENDMENT

The August 7, 2000, amendments adopted the provisions discussed in the department's analysis of the bill as proposed to be amended and resolved the technical concern addressed in the department's previous analysis of the bill as amended April 24, 2000.

Except for the resolved technical concern, the department's analysis of the bill as proposed to be amended still applies. The remaining implementation concerns are included below.

Implementation Considerations

This bill does not define the terms "covered," "employer-sponsored plan of health insurance," or "qualified taxpayer." The lack of clear definitions could lead to disputes between taxpayers and the department regarding the correct interpretation of these terms and, therefore, eligibility for the credit and the amount of the resulting credit.

Board Position:

<input checked="" type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Johnnie Lou Rosas

8/21/00

This credit is limited to overhead costs of specific business units located in a designated economic development area, but the bill does not specify a criterion to determine when a specific business unit is considered to be located "in" an economic development area (EDA) for purposes of the credit.

Pursuant to provisions of the Government Code added by this bill, a credit would be provided for aerospace contractors or suppliers or both for costs incurred while providing employee training within the aerospace and defense industry. Since this bill would include suppliers of the aerospace industry, this credit could apply to businesses outside the aerospace industry. For example, an office supply company may provide writing implements and paper to a business that provides training for the aerospace industry. Under this bill, the office supply company could be considered to be an aerospace industry supplier and could be eligible for the credit.

Also, the Government Code provisions added by this bill would require an entity claiming the credit under the B&CTL provisions to certify that the resulting credit shall be applied dollar-for-dollar against the overhead costs of the business unit located within the designated enterprise zone. The result of such "application" is not specified, and this provision does not provide any sanction if a taxpayer fails to certify as required. If this provision is intended to deny a deduction for some portion of overhead costs associated with the expenditures that are the basis for the credit, this language does not accomplish that purpose. In addition, this requirement regarding the application of the credit is not applicable to taxpayers claiming a credit under provisions of the PITL added by the bill.

This credit would be repealed on December 1, 2005, to allow fiscal year filers for taxable or income years beginning before January 1, 2005, but extending into the year 2005, to claim the credit for all the calendar months of the taxpayers' 2004/2005 fiscal year. However, the Aerospace Training Program under the Government Code is repealed on January 1, 2005. This inconsistency in dates may cause confusion over whether the credit is allowed to fiscal year filers based on costs paid or incurred during 2005 following repeal of the related Government Code provisions.

Although this bill provides language to recapture the credit from taxpayers that are found not eligible to take the credit, it specifies that "any credit amount allowed" would be recaptured. Recapture would be imposed regardless of whether the full credit amount allowed had been claimed by the taxpayer. This would result in the taxpayer being required to recapture unused carryover credit. The language also specifies that the credit would be recaptured in the taxpayer's first taxable or income year beginning after the act's operative date. Recapture is usually required in the year that a disqualifying event occurs or is discovered, not a year before or unrelated to the disqualifying event.

It is unclear whether a taxpayer in a trade or business within a designated zone must provide an employer-sponsored plan of insurance for all employees of the taxpayer regardless of the location where the employee is employed or only for those employees employed in the designated zone.

BOARD POSITION

Support.

At its July 5, 2000, meeting, the Franchise Tax Board voted 2-0 to support this bill, with member B. Timothy Gage abstaining.